

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA**

<b>IN THE MATTER OF THE COMPLAINT FILED</b>	)	<b>ORDER SCHEDULING ORAL</b>
<b>BY BLACK HILLS FIBERCOM, L.L.C., RAPID</b>	)	<b>ARGUMENT AND DECISION</b>
<b>CITY, SOUTH DAKOTA, AGAINST QWEST</b>	)	
<b>CORPORATION REGARDING INTRASTATE</b>	)	<b>CT03-154</b>
<b>SWITCHED ACCESS CHARGES APPLIED TO</b>	)	
<b>ISP-BOUND CALLS WHICH COMPLAINANT</b>	)	
<b>CLAIMS ARE INTERSTATE IN NATURE</b>	)	

On October 29, 2003, the Public Utilities Commission (Commission) received a complaint filed by Black Hills FiberCom, L.L.C., Rapid City, South Dakota (Complainant), against Qwest Corporation (Qwest) regarding intrastate switched access charges applied to ISP-Bound calls which Complainant claims are interstate in nature. On November 18, 2003, the Commission received an Answer and Counterclaim from Qwest. On December 9, 2003, the Commission received a Reply to Qwest's Counterclaim from FiberCom. A hearing was held on April 27, 2004. On June 14, 2004, the Commission received a Conditional Motion to Dismiss for Lack of Subject Matter Jurisdiction from Qwest. On July 29, 2004, the Commission received a Motion to Permit Post-Hearing Affidavit from Qwest. On August 10, 2004, the Commission received a Response to Motion to Permit Post-Hearing Affidavit from FiberCom. On August 16, 2004, the Commission received a Reply in Support of Motion to Permit Post-Hearing Affidavit from Qwest. On August 17, 2004, at its regular meeting, the Commission voted to deny Qwest's Motion to Permit Post-Hearing Affidavit.

The Commission finds that it has jurisdiction to enter this preliminary order pursuant to SDCL Chapters 1-26, 49-1, including 49-1-9 and 49-1-11, 49-13, including 49-13-1 through 49-13-14, inclusive, and SDCL Chapter 49-31, including 49-31-3, 49-31-7, 49-31-7.1, 49-31-7.2, 49-31-11, 49-31-18, 49-31-19 and 49-31-76, and ARSD Chapters 20:10:01, 20:10:24, 20:10:27, 20:10:28, 20:10:29 and 20:10:32.

The Conditional Motion to Dismiss, Complaint and Counterclaim have been scheduled for oral argument and decision on August 31, 2004, at 10:30 a.m. in Room 412 of the Capitol Building, 500 East Capitol Avenue, Pierre, SD 57501, or immediately following the Commission's regular meeting. It is therefore

ORDERED, that oral argument and decision in this matter shall be held at the time and place set forth above; and it is further

ORDERED, that the schedule for oral argument shall be as follows: FiberCom's opening argument - 30 minutes; Qwest's opening argument - 30 minutes; Staff's argument - 15 minutes; FiberCom's rebuttal argument - 10 minutes; Qwest's rebuttal argument - 10 minutes; and it is further

ORDERED, that time devoted by the parties to questions of the Commission or its

advisors shall not be included in the above time limits.

Dated at Pierre, South Dakota, this 26th day of August, 2004.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.

By: \_\_\_\_\_

Date: \_\_\_\_\_

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

\_\_\_\_\_  
ROBERT K. SAHR, Chairman

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GARY HANSON, Commissioner

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JAMES A. BURG, Commissioner